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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,046	02/05/2004	Philip R. Houston	BUSI-P01-001	5450

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EXAMINER	
MCCORMICK, GABRIELLE A	

ART UNIT	PAPER NUMBER
3629	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/773,046	HOUSTON, PHILIP R.	
	Examiner	Art Unit	
	Gabrielle McCormick	3629	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _05 February 2004_.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1-6_ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) _1-6_ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Status of Claims

1. This action is in reply to the application filed on February 5, 2004.

2. Claims 1-6 are currently pending and have been examined.

Requirement for Information Under 37 C.F.R. § 1.105

5. Applicant and the assignee of this application are required under 37 CFR 1.105 to provide the following information that the examiner has determined is reasonably necessary to the examination of this application.

6. The information is required to identify publications embodying the disclosed subject matter of a method and system for facilitating a sale of a product from an inventory of a selling entity. The Examiner upon conducting a search for prior art discovered a published document entitled: "Is Your CEO Lying? – Barron's cover". Notablecalls1. June 24, 2006 at http://notablecalls1.blogspot.com/2006/06/is-your-ceo-luing-barrons-cover.html.

7. The article discloses "five-year-old" Business Intelligence Advisors, the assignee of this application, "employs a number of former CIA and other national-security operatives to do behavioral analyses of corporate executives. The intent: to detect when managers are being less than candid or lying in their communications with shareholders, during interviews and quarterly earnings conference calls or even in press releases or management discussions in 10Ks." (pg. 1; para. 2). The article further discloses that BIA begun using an April 2001 CNBC interview of Sanjay Kumar as their main training video in "the spring of 2001" (pg. 3; para. 6 – pg. 4; para. 1).

8. In response to this requirement, please provide any known publications, brochures, manuals and press releases that describe Business Intelligence Advisors services and/or products that were the subject of the article. Please include any material that describes:

- Analyzing a corporate disclosure for verbal and non-verbal deceptive behavior analysis

9. Further, please provide the names and descriptions of any products or services that have incorporated the claimed subject matter, as of and subsequent to April 2001.

10. In responding to those requirements that require copies of documents, where the document is a bound text or a single article over 50 pages, the requirement may be met by providing copies of those pages that provide the particular subject matter indicated in the requirement, or where such subject matter is not indicated, the subject matter found in applicant's disclosure.

11. The fee and certification requirements of 37 CFR 1.97 are waived for those documents submitted in reply to this requirement. This waiver extends only to those documents within the scope of this requirement under 37 CFR 1.105 that are included in the applicant's first complete communication responding to this requirement. Any supplemental replies subsequent to the first communication responding to this requirement and any information disclosures beyond the scope of this requirement under 37 CFR 1.105 are subject to the fee and certification requirements of 37 CFR 1.97.

12. The applicant is reminded that the reply to this requirement must be made with candor and good faith under 37 CFR 1.56. Where the applicant does not have or cannot readily obtain an item of required information, a statement that the item is unknown or cannot be readily obtained may be accepted as a complete reply to the requirement for that item.

13. This requirement is an attachment of the enclosed Office action. A complete reply to the enclosed Office action must include a complete reply to this requirement. The time period for reply to this requirement coincides with the time period for reply to the enclosed Office action.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

4. **Claims 1-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Vrij et al. ("People's insight into their own behaviour and speech content while lying". British Journal of Psychology. London: May 2001. Vol. 92 Part 2. pg. 373, hereafter referred to as "Vrij") in view of Barboza ("Smith Barney Agrees to Settle Bond Charges for $2 Million". New York Times. (Late Edition (East Coast)). New York, N.Y.: Sep. 24, 1997. pg. D. 10).

5. **Claim 1:** Vrij discloses

- *comprising providing a record of a disclosure made by a representative,* (pg. 1; para. 2: 86 nurses were interviewed; interviews (i.e., records) were videotaped, transcribed and scored by independent coders)
- *identifying a stimulus given to the representative,* (pg. 3; para. 5: participants were asked questions (the question is a stimulus)).
- *reviewing for a pre-determined period of time behavior of the representative responsive to the stimulus to determine the presence of a cluster of deceptive behaviors,* (pg. 3; para. 6: observers coded 10 behaviours)
- *noting an identified cluster within a record of the disclosure*. (pg. 5; para. 5: the study is considered to contain the interviews and analysis)

6. Vrij does not disclose *analyzing a corporate disclosure*.

7. Barboza, however, discloses that Smith Barney "regrets that it did not detect and prevent this deception by one its former employees" and had "hired a consultant to review some of its procedures". (para. 9 and 11).

8. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included studying the deceptive behaviors of financial managers, as disclosed by Barboza in the system disclosed by Vrij, for the motivation of providing a method of understanding the correlation of lying to behaviors as it relates to financial managers for the purpose of detecting and preventing fraud. Vrij teaches the behaviors of liars (pg. 1; para. 3) while Barboza teaches the need in the financial world to detect deception (para. 8 and 9). Therefore, it's obvious that managers lie and there exist documented behaviors that can aid in the detection of the deception.

9. **Claims 2-5:** Vrij discloses questions (pg. 3; para. 5), verbal (pg. 4; para. 10) and non-verbal responses (pg. 5; para. 5), topics (pg. 3; para. 5: each question is a topic), time periods (pg. 4; para. 6: latency period), representatives (pg. 1; para. 2: 86 nurses), interviewers (pg. 2; para. 3: 2 interviews for each nurses, one in which they were instructed to tell the truth, another in which they were instructed to lie).

10. **Claim 6:** Vrij discloses videotaped and transcribed interviews (pg. 1; para. 2) that were coded based on behaviours (pg. 3; para. 6).

11. Vrij does not disclose *a disclosure by a corporate representative*.

12. Barboza, however, discloses that Smith Barney "regrets that it did not detect and prevent this deception by one its former employees" and had "hired a consultant to review some of its procedures". (para. 9 and 11).

13. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have included studying the deceptive behaviors of financial managers (corporate representatives), as disclosed by Barboza in the system disclosed by Vrij, for the motivation of providing a method of understanding the correlation of lying to behaviors as it relates to financial managers for the purpose of detecting and preventing fraud. Vrij teaches the behaviors of liars

(pg. 1; para. 3) while Barboza teaches the need in the financial world to detect deception (para. 8 and 9). Therefore, it's obvious that managers lie and there exist documented behaviors that can aid in the detection of the deception.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gabrielle McCormick whose telephone number is 571-270-1828. The examiner can normally be reached on Monday - Thursday (6:00- 4:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss can be reached on 571-272-6812. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/G. M./
Examiner, Art Unit 3629

/John G. Weiss/
Supervisory Patent Examiner, Art Unit 3629